

42

HIGH COURT OF CHHATTISGARH AT BILASPUR
DIVISION BENCH

CORAM: HON'BLE SHRI H.L. DATTU, C.J. &
HON'BLE SHRI V.K. SHRIVASTAVA, J.

Writ Petition No. 366 of 1993

PETITIONER

Century Textiles and Industries Ltd.;
a Limited Company, registered as
such under the Companies Act,
having its registered office at
Century Bhavan, Dr. Annie Besant
Road, Worli, Bombay, and Unit by
and under the name of "Maihar
Cement", Tahsil : Maihar District
Satna

VERSUS

RESPONDENTS

1. State of Madhya Pradesh
Through : Secretary, Law,
Vallabh Bhavan, Bhopal
2. South Eastern Coal Fields Ltd.;
Sepat Road, Bilaspur (M.P.)

Present: Shri Bhaskar Payasi, counsel for the petitioner.
Shri N.K. Agrawal, Dy. A.G. for the State/respondent
No.1.
Shri P.S. Koshy, counsel for respondent No.2.

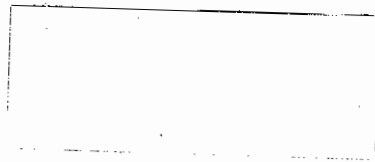
ORAL ORDER

(Passed on 03rd April, 2007)

The following oral order of the Court was passed by
H.L. Dattu, C.J.

The petitioner is a limited company registered under the
Companies Act.

(2) In this petition filed under Articles 226/227 of the Constitution of
India, the petitioner has sought for a writ in the nature of certiorari to
quash the demand notices issued by the respondents dated
19-06-1992, 23-06-1992, 19-06-1992, 27-06-1992 and 14-10-1991 and



2

(45)

further for a direction to the respondents to refund a sum of Rs.91,356.72 paise with interest @ 18% per annum.

(3) Learned counsel appearing for the petitioner would submit that the demand raised by the respondents is one without authority of law and contrary to the law declared by the Apex Court in the case of District Mining Officer and others Vs. Tata Iron & Steel Co. and another, reported in AIR 2001 SC 3134.

(4) In our opinion, the petition filed by the petitioner is wholly premature. Before approaching this Court, the petitioner ought to have filed objections to the demand notices issued by the respondents treating the said demand notices as show cause notices and it should have brought to the notice of the respondents the law declared by the Apex Court and also should have made a request to withdraw the demand notices. That has not been done by the petitioner.

(5) So far as the refund part is concerned, in our opinion, the petitioner ought to have filed appropriate representation before the respondents for refund of the cess collected by them, by placing reliance on the observations made by the Apex Court and if for any reason, that representation is not considered by the respondents, then only a cause of action would arise to approach this Court under Article 226 of the Constitution of India.

(6) In that view of the matter, we decline to entertain this writ petition. Accordingly, the writ petition is rejected. However, liberty is reserved to the petitioner to treat the demand notices issued by the respondents as show cause notices and to file objections, if any, to those demand notices, within a month's time from today. If and when such objections are filed, the respondents would consider the same in

3

44

accordance with law and also keeping in view the observations made by the Apex Court in the case of District Mining Officer (Supra). So far as the second prayer is concerned, the petitioner is at liberty to file appropriate representation for refund of the cess collected by the respondents with interest and if and when such representation is made, the respondents are directed to consider the same in accordance with law. Ordered accordingly.

Sd/-
Chief Justice

Sd/-
Vijay Kumar Shrivastava
Judge